



0000091813

ORIGINAL

RECEIVED

1 FENNEMORE CRAIG, P.C.

2 Jay L. Shapiro (No. 014650)

3 Todd C. Wiley (No. 015358)

4 3003 North Central Avenue, Suite 2600

5 Phoenix, Arizona 85012

6 Telephone (602)916-5000

7 Attorneys for Pine Water Company

2008 DEC 12 P 1:22

Arizona Corporation Commission

DOCKETED

DEC 12 2008

DOCKETED BY

MA

BEFORE THE ARIZONA CORPORATION COMMISSION

8 IN THE MATTER OF THE APPLICATION
 9 OF PINE WATER COMPANY FOR
 10 APPROVAL TO (1) ENCUMBER A PART
 11 OF ITS PLANT AND SYSTEM
 12 PURSUANT TO A.R.S. § 40-285(A); AND
 (2) ISSUE EVIDENCE OF
 INDEBTEDNESS PURSUANT TO A.R.S.
 § 40-302(A).

DOCKET NO: W-03512A-07-0362

**PINE WATER COMPANY'S
STATUS REPORT**

13 Pine Water Company ("PWCo") submits the following status report in accordance
 14 with the Procedural Order dated September 29, 2008, which requires "that the Intervenor
 15 and Pine Water Company shall file by December 12, 2008, either jointly or separately, a
 16 report including the status of any purchase negotiations or condemnation efforts, and any
 17 other developments or pertinent information in this case." PWCo previously provided the
 18 Commission with reports on the status of the Pine-Strawberry Water Improvement
 19 District's efforts to condemn PWCo and Strawberry Water Company ("SWCo") in (i)
 20 PWCo's Reply to Intervenor's Opposition to Notice of Withdrawal dated December 9,
 21 2006, (ii) PWCo's Notice of Withdrawal dated November 24, 2008 and (iii) PWCo's
 22 letter to Chairman Gleason dated November 24, 2008. PWCo incorporates those
 23 documents herein.

24 To summarize, the District has terminated the Joint Well Development Agreement
 25 with PWCo, and the District has refused to perform its obligations under the JWDA,
 26

1 including refusing to release the necessary funds from escrow for the K2 project. As a
2 result, PWCo had no choice but to file arbitration claims against the District for breach of
3 the JWDA. The arbitration hearing is scheduled for February 9-12, 2009.

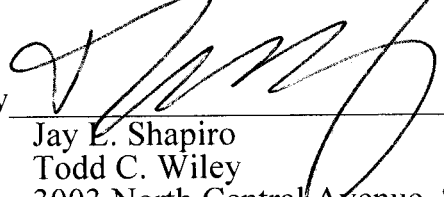
4 On or about November 12, 2008, the District filed a condemnation complaint in
5 Gila County Superior Court, Case No. CV 2008 375. PWCo has contested the
6 condemnation and the parties currently anticipate lengthy litigation. With respect to the
7 District's condemnation efforts, this Commission should be aware that, over the past few
8 months, PWCo has repeatedly asked the District to provide contracts, documentation and
9 other information illustrating that the District has obtained financing for its proposed
10 condemnation of PWCo and SWCo. To date, the District has not provided any such
11 evidence or documents to PWCo.

12 Finally, with respect to this docket, the relief sought is no longer necessary. The
13 primary reason for the Company's application was the District's requirement of a lien
14 against the yet to be constructed K2 well, a requirement the District unilaterally waived
15 several months ago when it deposited its funding in escrow. The financing obligation on
16 PWCo does not become effective without both an asset and a rate case where the asset is
17 included in rate base, which are events that may occur sometime in the future. To the
18 extent it might become necessary for PWCo to seek relief related to the K2 project at a
19 later date, PWCo would seek relief at that time. Currently, however, this docket should be
20 administratively closed.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

DATED this 12th day of December, 2008.

FENNEMORE CRAIG, P.C.

By 
Jay E. Shapiro
Todd C. Wiley
3003 North Central Avenue, Suite 2600
Phoenix, Arizona 85012
Attorneys for Pine Water Company

1 **ORIGINAL** and thirteen (13) copies of the
2 foregoing filed this 12th day of December, 2008:

3 Docket Control
4 Arizona Corporation Commission
5 1200 W. Washington St.
6 Phoenix, AZ 85007

7 **COPY** of the foregoing hand-delivered
8 this 12th day of December, 2008:

9 Mr. Dwight D. Nodes
10 Assistant Chief Administrative
11 Law Judge
12 Arizona Corporation Commission
13 1200 W. Washington Street
14 Phoenix, AZ 85007

15 Mr. Kevin Torrey, Esq.
16 Legal Division
17 Arizona Corporation Commission
18 1200 West Washington Street
19 Phoenix, Arizona 85007

20 Chairman Mike Gleason
21 Arizona Corporation Commission
22 1200 W. Washington Street
23 Phoenix, AZ 85007

24 Commissioner Jeff Hatch-Miller
25 Arizona Corporation Commission
26 1200 W. Washington Street
Phoenix, AZ 85007

Commissioner Kristin K. Mayes
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, AZ 85007

Commissioner Gary Pierce
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, AZ 85007

Commissioner William A. Mundell
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, AZ 85007

Ken Rozen
Aide to Commissioner Mike Gleason
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, AZ 85007

Amber Brown
Aide to Commissioner Jeff Hatch-Miller
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, AZ 85007

Giancarlo Estrada
Aide to Commissioner Kristin K. Mayes
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, AZ 85007

Adam Stafford
Aide to Commissioner William A.
Mundell
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, AZ 85007

John LeSueuer
Aide to Commissioner Gary Pierce
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, AZ 85007

1
2 **COPY** of the foregoing mailed and
3 e-mailed this 12th day of December,
4 2008 to:

5 jgliege@earthlink.net;
6 jgliege@gliege.com
7 John G. Gliege
8 Gliege Law Offices, PLLC
9 P.O. Box 1388
10 Flagstaff, AZ 86002-1388

11 By: 

12
13
14 PHX/TWILEY/2142265.1/75206.015
15
16
17
18
19
20
21
22
23
24
25
26